

STEVEN W. MYHRE  
Acting United States Attorney

HOLLY A. VANCE  
Assistant United States Attorney  
100 West Liberty Street, Suite 600  
Reno, Nevada 89501  
Tel: (775) 784-5438  
Fax: (775) 784-5181  
[Holly.A.Vance@usdoj.gov](mailto:Holly.A.Vance@usdoj.gov)

Attorneys for the United States

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

DREE ANN CELLEMME, ) Case No. 2:16-CV-02539-JAD-CWH

Plaintiff, )

v. )

NS, ATTORNEY )

**UNOPPOSED MOTION FOR LEAVE TO  
FILE UNOPPOSED MOTION FOR RELIEF  
FROM REQUIREMENT THAT PERSON  
WITH SETTLEMENT AUTHORITY  
ATTEND SETTLEMENT CONFERENCE**

**EXPEDITED REVIEW REQUESTED**

Defendants hereby move for leave to file the attached Unopposed Motion for Relief from Requirement that Person with Settlement Authority Attend Settlement Conference. Plaintiff Dree Ann Cellemme (“Plaintiff”) was contacted and has advised that she does not object to Defendants’ motion for leave.

111

111

## BACKGROUND

On February 10, 2017, the Court scheduled an early neutral evaluation (“ENE”) session in this case for April 13, 2017, at 1:30 p.m. before United States Magistrate Judge Peggy A. Leen. (ECF No. 18). The order setting the ENE conference requires a government representative with “full [settlement] authority” to attend the conference. (ECF No. 18 p. 1). The order also requires that any request for an exception to the attendance requirement be filed within seven days after the issuance of the Court’s order. (ECF No. 18 p. 2). The order scheduling the ENE session issued on February 10, 2017, and thus the deadline for seeking exceptions to the Court’s attendance requirements was February 17, 2017. (ECF No. 18 p. 2).

## ARGUMENT

Defense counsel has been out of the office on business and for numerous health issues and medical appointments over the last month and was unable to file a timely motion for relief from the Court's ENE attendance requirements. (Vance Decl. ¶ 4). Defense counsel contacted Plaintiff via e-mail and Plaintiff advised that she does not object to Defendants' request for leave to file their Unopposed Motion for Relief from Requirement that Person with Settlement Authority Attend Settlement Conference. (Vance Decl. ¶ 3). Moreover, no prejudice would result from the granting of the motion because both parties wish for the ENE session to proceed. Under the circumstances, the motion for leave should be granted so that Defendants' underlying motion can be considered and decided before the ENE session takes place.

111

111

111

## CONCLUSION

For the reasons argued above, Defendants respectfully request that Defendants' Unopposed Motion for Leave to File Unopposed Motion for Relief from Requirement that Person with Settlement Authority Attend Settlement Conference be granted.

Respectfully submitted,

STEVEN W. MYHRE  
Acting United States Attorney

/s/ Holly A. Vance  
HOLLY A. VANCE  
Assistant United States Attorney

IT IS SO ORDERED this 27th day of March, 2017.

Peggy A. Leen  
United States Magistrate Judge

## **CERTIFICATE OF SERVICE**

It is hereby certified that service of the foregoing **UNOPPOSED MOTION FOR LEAVE TO FILE UNOPPOSED MOTION FOR RELIEF FROM REQUIREMENT THAT PERSON WITH SETTLEMENT AUTHORITY ATTEND SETTLEMENT CONFERENCE** was made through the Court's electronic filing and notice system or, as appropriate, by sending a copy of same by first class mail, addressed to the following addressees, on this 21st day of March, 2017.

Addressee:

Dree Ann Cellemme  
10755 Scripps Poway Parkway, Ste 403  
San Digeo, CA 92131

/s/ Holly A. Vance  
**HOLLY A. VANCE**

1 STEVEN W. MYHRE  
2 Acting United States Attorney

3 HOLLY A. VANCE  
4 Assistant United States Attorney  
5 100 West Liberty Street, Suite 600  
6 Reno, Nevada 89501  
7 Tel: (775) 784-5438  
8 Fax: (775) 784-5181  
[Holly.A.Vance@usdoj.gov](mailto:Holly.A.Vance@usdoj.gov)

9 Attorneys for the United States

10  
11 **UNITED STATES DISTRICT COURT**  
12  
13 **DISTRICT OF NEVADA**

14 \* \* \*

15 DREE ANN CELLEMME, ) Case No. 2:16-CV-02539-JAD-CWH  
16 )  
17 Plaintiff, )  
18 )  
19 v. ) **DECLARATION OF HOLLY A. VANCE**  
20 )  
21 JEFF SESSIONS, ATTORNEY )  
22 GENERAL, U.S. DEPARTMENT OF )  
23 JUSTICE; and FEDERAL BUREAU )  
24 OF INVESTIGATION, )  
25 )  
Defendants. )  
26 )  
27 \_\_\_\_\_ )

28  
29 I, Holly A. Vance, hereby declare as follows pursuant to 28 U.S.C. § 1746:

30 1. I serve as an Assistant United States Attorney with the Department of Justice, United  
31 States Attorney's Office in Reno, Nevada. I have served in that capacity since October 2008.  
32  
33 2. I have been assigned to defend the litigation entitled *Cellemme v. Sessions et al.*, Case No.  
34 2:16-CV-02539-JAD-CWH.  
35  
36 // /

3. On March 20, 2017, I contacted Plaintiff Dree Ann Cellemme via e-mail to inquire if she had any objection to Defendants' Motion for Relief from Requirement that Person with Settlement Authority Attend Settlement Conference and Defendants' motion requesting leave to file that motion. Ms. Cellemme responded via e-mail that she did not object to either motion.

4. I have been out of the office on business and for numerous health issues and medical appointments over the last month. As a result, I was unable to comply with the Court's February 17, 2017 deadline for seeking exceptions to the attendance requirements set forth in the Court's February 10, 2017 order scheduling an early neutral evaluation session in this case. (ECF No. 18 pp. 1-2).

I declare under penalty of perjury that the foregoing is true and correct based on my personal knowledge.

Executed this 21st day of March, 2017, in Reno, Nevada.

Holly A. Vance  
HOLLY A. VANCE  
Assistant United States Attorney

STEVEN W. MYHRE  
Acting United States Attorney

HOLLY A. VANCE  
Assistant United States Attorney  
100 West Liberty Street, Suite 600  
Reno, Nevada 89501  
Tel: (775) 784-5438  
Fax: (775) 784-5181  
[Holly.A.Vance@usdoj.gov](mailto:Holly.A.Vance@usdoj.gov)

Attorneys for the United States

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

\* \* \*

DREE ANN CELLEMME, ) Case No. 2:16-CV-02539-JAD-CWH

Plaintiff,

V. )

**UNOPPOSED MOTION FOR RELIEF**  
**FROM REQUIREMENT THAT PERSON**  
**WITH SETTLEMENT AUTHORITY**  
**ATTEND SETTLEMENT CONFERENCE**

**EXPEDITED REVIEW REQUESTED**

## Defendants.

An early neutral evaluation (“ENE”) session is scheduled in this case for April 13, 2017, at 1:30 p.m. before United States Magistrate Judge Peggy A. Leen. (ECF No. 18). The order setting the ENE conference requires a government representative with “full [settlement] authority” to attend the conference. (ECF No. 18 p. 1). For the reasons argued below, Defendants respectfully request that the Court authorize Assistant United States Attorney (“AUSA”) Holly A. Vance to participate in the

1 settlement conference in person as the sole representative for the government. Plaintiff Dree Ann  
 2 Cellemme (“Plaintiff”) was contacted and has advised that she has no objection to Defendants’ request.

3 **ARGUMENT**

4 The federal government is unlike any other litigant. *U.S. v. U.S. Dist. Court for the N. Mariana*  
 5 *Islands*, 694 F.3d 1051, 1059 (9th Cir. 2012). Because the government handles a very large number of  
 6 cases, it would be impractical, if not physically impossible, for those with settlement authority to prepare  
 7 for — and appear at — all settlement conferences. *Id.* The Advisory Committee notes that accompany the  
 8 1993 amendments to Federal Rule of Civil Procedure 16 acknowledge the unique position that the federal  
 9 government occupies as a litigant: “Particularly in litigation in which governmental agencies \* \* \* are  
 10 involved, there may be no one with on-the-spot settlement authority, and the most that should be expected  
 11 is access to a person who would have a major role in submitting a recommendation to the body or board  
 12 with ultimate decision-making responsibility.”

13 The government delegates settlement authority to select individuals in order to promote  
 14 centralized decision-making. *U.S. Dist. Court for the N. Mariana Islands* at 1059-6060. Centralized  
 15 decision-making promotes three important government objectives. *Id.* First, it allows the government to  
 16 act consistently in important cases. *Id.* Second, centralized decision-making allows the executive branch  
 17 to pursue policy goals more effectively by placing ultimate authority in the hands of a few officials. *Id.*  
 18 Third, by giving authority to high-ranking officials, centralized decision-making better promotes political  
 19 accountability. *Id.* In light of these principles, the Ninth Circuit has determined that the district court  
 20 should adopt a “practical approach” in deciding whether to require a government representative with full  
 21 settlement authority to attend a pre-trial conference. According to the Ninth Circuit, only as a “last resort”  
 22 should the district court require an official with full settlement authority to participate in a pre-trial  
 23 conference in person. *Id.*

1 Consistent with *U.S. Dist. Court for the N. Mariana Islands*, the government routinely requests  
2 that the district court allow the line attorney assigned to the case to appear in person at an ENE conference  
3 as the sole representative for the government. Before the settlement conference, that line attorney  
4 discusses the case thoroughly with those government representatives who do have settlement authority  
5 in order to determine the range of settlement offers that would be acceptable to the government. This  
6 approach has not hampered settlement discussions or created an impediment to settlement in the hundreds  
7 of ENE conferences in which the government has participated over the years. In fact, hundreds of cases  
8 involving the government have settled over the years utilizing this approach. Accordingly, Defendants  
9 respectfully request that the Court authorize AUSA Vance to participate in the settlement conference as  
10 the sole representative for the government. Defense counsel contacted Plaintiff who advised that she does  
11 not object to Defendants' request. (Vance Decl ¶ 3).

12 **CONCLUSION**

13 For the reasons argued above, Defendants respectfully request that the Court grant Defendants'  
14 Unopposed Motion for Relief from Requirement that Person with Settlement Authority Attend  
15 Settlement Conference.

16 Respectfully submitted,

17 STEVEN W. MYHRE  
Acting United States Attorney

18 /s/ Holly A. Vance  
19 HOLLY A. VANCE  
Assistant United States Attorney

## **CERTIFICATE OF SERVICE**

It is hereby certified that service of the foregoing **UNOPPOSED MOTION FOR RELIEF** **FROM REQUIREMENT THAT PERSON WITH SETTLEMENT AUTHORITY ATTEND** **SETTLEMENT CONFERENCE** and **EXPEDITED REVIEW REQUESTED** was made through the Court's electronic filing and notice system or, as appropriate, by sending a copy of same by first class mail, addressed to the following addressees, on this 21st day of March, 2017.

Addressee:

Dree Ann Cellemme  
10755 Scripps Poway Parkway, Ste 403  
San Digeo, CA 92131

/s/ Holly A. Vance  
**HOLLY A. VANCE**